

AMENDED IN SENATE MAY 14, 2003

AMENDED IN SENATE MAY 12, 2003

AMENDED IN SENATE MAY 5, 2003

SENATE BILL

No. 238

Introduced by Senator Perata

February 14, 2003

An act to amend Sections 666.7, ~~11106~~, 11108.3, 12021, 12028, 12074, 12077, 12201, 12280, 12285, 12287, 12290, and 12301 of the Penal Code, relating to deadly weapons.

LEGISLATIVE COUNSEL'S DIGEST

SB 238, as amended, Perata. Deadly weapons.

Existing law requires police and sheriff's departments to report specified information about firearms to the federal Bureau of Alcohol, Tobacco, and Firearms, whenever they recover a firearm that is illegally possessed, has been used in a crime, or is suspected of having been used in a crime.

This bill would authorize other law enforcement entities to report that information, and would additionally authorize any law enforcement entity to report the information, as described above, when a firearm is otherwise taken into custody by them, excepting the case where the firearm is voluntarily placed with the agency for safekeeping.

Existing law provides that persons convicted of certain misdemeanors are prohibited from owning or possessing a firearm for a period of 10 years, as specified.

This bill would delete the provisions imposing the 10-year prohibition for conviction of a specified misdemeanor regarding

discharge of a firearm at a dwelling, other building, or vehicle, as specified.

Existing law provides that a firearm owned or possessed in violation of certain provisions of law is a nuisance.

This bill would provide that with regard to violations of those specific provisions of law, if the firearm owner disposes of the firearm pursuant to a specified procedure, then the firearm would not be a nuisance.

~~Existing law requires the Attorney General to permanently keep and maintain specified information reported to the Department of Justice relating to firearms capable of being concealed on the person, and to maintain a registry thereof. Existing law requires a firearms dealer to record specified information pertaining to a firearms transaction in a register or record of electronic transfer.~~

This bill would additionally require the firearms dealer to record on the register or record of electronic transfer the date that the firearm is delivered. ~~The bill would allow the Department of Justice to require a firearms dealer to report this information to the department, and would require the inclusion of this information, as the department deems necessary, in the registry described above.~~ This bill would make other technical conforming amendments to these provisions.

Existing law generally regulates machineguns, and, in regard to machineguns, authorizes the sale to, purchase by, and manufacture for, various law enforcement agencies, and other specified government entities.

This bill would require that persons selling machineguns to those entities be permitted and licensed as specified.

Existing law, subject to certain exceptions, makes it a crime, punishable either as a felony or a misdemeanor, for any person to possess any assault weapon, as defined. However, if a person charged with a first-time violation of that offense presents proof that he or she lawfully possessed the assault weapon within a specified period, and has since registered the weapon or relinquished it, the offense is punishable as an infraction, if the person has also complied with specified conditions, and the firearm would be returned to the person, subject to exceptions.

This bill would eliminate the provisions authorizing return of the firearm and instead provide for destruction of the assault weapon. This bill would make other nonsubstantive conforming changes to various cross-references necessitated by the bill's provisions.



Existing law authorizes a licensed firearms dealer to sell an assault weapon to a person who has a permit to possess one.

This bill would additionally require the firearms dealer to have a permit authorizing the dealer to sell assault weapons.

Existing law defines and generally regulates “destructive devices.” Existing law also generally provides, subject to certain exceptions, that the possession, transport or sale of destructive devices are crimes subject to various punishments.

This bill would add to the list of destructive devices, any flamethrower designed or redesigned for use as a weapon.

By expanding the scope of existing crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 666.7 of the Penal Code is amended to
2 read:

3 666.7. It is the intent of the Legislature that this section serve
4 merely as a nonsubstantive comparative reference of current
5 sentence enhancement provisions. Nothing in this section shall
6 have any substantive effect on the application of any sentence
7 enhancement contained in any provision of law, including, but not
8 limited to, all of the following: omission of any sentence
9 enhancement provision, inclusion of any obsolete sentence
10 enhancement provision, or inaccurate reference or summary of a
11 sentence enhancement provision.

12 It is the intent of the Legislature to amend this section as
13 necessary to accurately reflect current sentence enhancement
14 provisions, including the addition of new provisions and the
15 deletion of obsolete provisions.

16 For the purposes of this section, the term “sentence
17 enhancement” means an additional term of imprisonment in the



1 state prison added to the base term for the underlying offense. A
2 sentence enhancement is imposed because of the nature of the
3 offense at the time the offense was committed or because the
4 defendant suffered a qualifying prior conviction before
5 committing the current offense.

6 (a) The provisions listed in this subdivision imposing a
7 sentence enhancement of one year imprisonment in the state prison
8 may be referenced as Schedule A.

9 (1) Money laundering when the value of transactions exceeds
10 fifty thousand dollars (\$50,000), but is less than one hundred fifty
11 thousand dollars (\$150,000) (subpara. (A), para. (1), subd. (c),
12 Sec. 186.10, Pen. C.).

13 (2) Commission of two or more related felonies, a material
14 element of which is fraud or embezzlement, which involve a
15 pattern of related felony conduct, involving the taking of more
16 than one hundred thousand dollars (\$100,000) (para. (3), subd. (a),
17 Sec. 186.11, Pen. C.).

18 (3) Felony conviction of willful harm or injury to a child,
19 involving female genital mutilation (subd. (a), Sec. 273.4, Pen.
20 C.).

21 (4) Prior conviction of felony hate crime with a current
22 conviction of felony hate crime (subd. (e), Sec. 422.75, Pen. C.).

23 (5) Harming, obstructing, or interfering with any horse or dog
24 being used by any peace officer in the discharge or attempted
25 discharge of his or her duties and, with the intent to so harm,
26 obstruct, or interfere, personally causing the death, destruction, or
27 serious physical injury of any horse or dog (subd. (c), Sec. 600,
28 Pen. C.).

29 (6) Prior prison term with current felony conviction (subd. (b),
30 Sec. 667.5, Pen. C.).

31 (7) Commission of any specified offense against a person who
32 is 65 years of age or older, blind, a paraplegic or quadriplegic, or
33 under 14 years of age (subd. (a), Sec. 667.9, Pen. C.).

34 (8) Showing child pornography to a minor prior to or during the
35 commission or attempted commission of any lewd or lascivious
36 act with the minor (subd. (a), Sec. 667.15, Pen. C.).

37 (9) Felony conviction of forgery, grand theft, or false pretenses
38 as part of plan or scheme to defraud an owner in connection with
39 repairs to a structure damaged by a natural disaster (subd. (a), Sec.
40 667.16, Pen. C.).



1 (10) Impersonating a peace officer during the commission of a
2 felony (Sec. 667.17, Pen. C.).

3 (11) Felony conviction of any specified offense, including, but
4 not limited to, forgery, grand theft, and false pretenses, as part of
5 plan or scheme to defraud an owner in connection with repairs to
6 a structure damaged by natural disaster with a prior felony
7 conviction of any of those offenses (subd. (c), Sec. 670, Pen. C.).

8 (12) Commission or attempted commission of a felony while
9 armed with a firearm (para. (1), subd. (a), Sec. 12022, Pen. C.).

10 (13) Personally using a deadly or dangerous weapon in the
11 commission or attempted commission of a felony (para. (1), subd.
12 (b), Sec. 12022, Pen. C.).

13 (14) Taking, damaging, or destroying any property in the
14 commission or attempted commission of a felony with the intent
15 to cause that taking, damage, or destruction when the loss exceeds
16 fifty thousand dollars (\$50,000) (para. (1), subd. (a), Sec. 12022.6,
17 Pen. C.).

18 (15) Transferring, lending, selling, or giving any assault
19 weapon to a minor (para. (2), subd. (a), Sec. 12280, Pen. C.).

20 (16) Manufacturing, causing to be manufactured, distributing,
21 transporting, importing, keeping for sale, offering or exposing for
22 sale, giving, or lending any assault weapon while committing
23 another crime (subd. (d), Sec. 12280, Pen. C.).

24 (17) Inducing, employing, or using a minor to commit a drug
25 offense involving heroin, cocaine, or cocaine base, or unlawfully
26 furnishing one of these controlled substances to a minor, upon the
27 grounds of, or within, a church, playground, youth center, child
28 day care facility, or public swimming pool during business hours
29 or whenever minors are using the facility (para. (1), subd. (a), Sec.
30 11353.1, H.& S.C.).

31 (18) Inducing another person to commit a drug offense as part
32 of the drug transaction for which the defendant is convicted when
33 the value of the controlled substance involved exceeds five
34 hundred thousand dollars (\$500,000) (para. (1), subd. (a), Sec.
35 11356.5, H.& S.C.).

36 (19) Manufacturing, compounding, converting, producing,
37 deriving, processing, or preparing methamphetamine or
38 phencyclidine (PCP), or attempting to commit any of those acts,
39 or possessing specified combinations of substances with the intent
40 to manufacture either methamphetamine or phencyclidine (PCP),

1 when the commission or attempted commission of the offense
2 causes the death or great bodily injury of another person other than
3 an accomplice (subd. (a), Sec. 11379.9, H.& S.C.).

4 (20) Using a minor to commit a drug offense involving
5 phencyclidine (PCP), methamphetamine, or lysergic acid
6 diethylamide (LSD), or unlawfully furnishing one of these
7 controlled substances to a minor, when the commission of the
8 offense occurs upon the grounds of, or within, a church,
9 playground, youth center, child day care facility, or public
10 swimming pool during business hours or whenever minors are
11 using the facility (para. (1), subd. (a), Sec. 11380.1, H.& S.C.).

12 (21) Possessing for sale, or selling, heroin, cocaine, cocaine
13 base, methamphetamine, or phencyclidine (PCP), when the
14 commission of the offense occurs upon the grounds of a public
15 park, public library, or oceanfront beach (para. (1), subd. (a), Sec.
16 11380.5, H.& S.C.).

17 (22) Causing bodily injury or death to more than one victim in
18 any one instance of driving under the influence of any alcoholic
19 beverage or drug (Sec. 23558, Veh. C.).

20 (23) Fraudulently appropriating food stamps, electronically
21 transferred benefits, or authorizations to participate in the federal
22 Food Stamp Program entrusted to a public employee, or
23 knowingly using, transferring, selling, purchasing, or possessing
24 any of the same in an unauthorized manner, when the offense is
25 committed by means of an electronic transfer of benefits in an
26 amount exceeding fifty thousand dollars (\$50,000), but less than
27 one hundred fifty thousand dollars (\$150,000) (subpara. (A), para.
28 (1), subd. (h), Sec. 10980, W.& I.C.).

29 (b) The provisions listed in this subdivision imposing a
30 sentence enhancement of one, two, or three years' imprisonment
31 in the state prison may be referenced as Schedule B.

32 (1) Commission or attempted commission of a felony hate
33 crime (subd. (a), Sec. 422.75, Pen. C.).

34 (2) Commission or attempted commission of a felony against
35 the property of a public or private institution because the property
36 is associated with a person or group of identifiable race, color,
37 religion, nationality, country of origin, ancestry, gender, disability,
38 or sexual orientation (subd. (b), Sec. 422.75, Pen. C.).

39 (3) Felony conviction of unlawfully causing a fire of any
40 structure, forest land, or property when the defendant has been

1 previously convicted of arson or unlawfully causing a fire, or when
2 a firefighter, peace officer, or emergency personnel suffered great
3 bodily injury, or when the defendant proximately caused great
4 bodily injury to more than one victim, or caused multiple
5 structures to burn (subd. (a), Sec. 452.1, Pen. C.).

6 (4) Carrying a loaded or unloaded firearm during the
7 commission or attempted commission of any felony street gang
8 crime (subd. (a), Sec. 12021.5, Pen. C.).

9 (5) Personally using a deadly or dangerous weapon in the
10 commission of carjacking or attempted carjacking (para. (2), subd.
11 (b), Sec. 12022, Pen. C.).

12 (6) Being a principal in the commission or attempted
13 commission of any specified drug offense, knowing that another
14 principal is personally armed with a firearm (subd. (d), Sec. 12022,
15 Pen. C.).

16 (7) Furnishing or offering to furnish a firearm to another for the
17 purpose of aiding, abetting, or enabling that person or any other
18 person to commit a felony (Sec. 12022.4, Pen. C.).

19 (8) Selling, supplying, delivering, or giving possession or
20 control of a firearm to any person within a prohibited class or to
21 a minor when the firearm is used in the subsequent commission of
22 a felony (para. (4), subd. (g), Sec. 12072, Pen. C.).

23 (9) Inducing, employing, or using a minor who is at least four
24 years younger than the defendant to commit a drug offense
25 involving any specified controlled substance, including, but not
26 limited to, heroin, cocaine, and cocaine base, or unlawfully
27 providing one of these controlled substances to a minor (para. (3),
28 subd. (a), Sec. 11353.1, H.& S.C.).

29 (10) Prior conviction of inducing, employing, or using a minor
30 to commit a drug offense involving cocaine base, or unlawfully
31 providing cocaine base to a minor that resulted in a prison sentence
32 with a current conviction of the same offense (subd. (a), Sec.
33 11353.4, H.& S.C.).

34 (11) Prior conviction of inducing, employing, or using a minor
35 to commit a drug offense involving cocaine base, or unlawfully
36 providing cocaine base to a minor with a current conviction of the
37 same offense involving a minor who is 14 years of age or younger
38 (subd. (b), Sec. 11353.4, H.& S.C.).

39 (12) Inducing, employing, or using a minor who is at least four
40 years younger than the defendant to commit a drug offense

1 involving any specified controlled substance, including, but not
2 limited to, phencyclidine (PCP), methamphetamine, and lysergic
3 acid diethylamide (LSD), or unlawfully providing one of these
4 controlled substances to a minor (para. (3), subd. (a), Sec. 11380.1,
5 H.& S.C.).

6 (13) Causing great bodily injury or a substantial probability
7 that death could result by the knowing disposal, transport,
8 treatment, storage, burning, or incineration of any hazardous
9 waste at a facility without permits or at an unauthorized point
10 (subd. (e), Sec. 25189.5, and subd. (c), Sec. 25189.7, H.& S.C.).

11 (c) The provisions listed in this subdivision imposing a
12 sentence enhancement of one, two, or five years' imprisonment in
13 the state prison may be referenced as Schedule C.

14 (1) Wearing a bullet-resistant body vest in the commission or
15 attempted commission of a violent offense (subd. (b), Sec.
16 12022.2, Pen. C.).

17 (2) Commission or attempted commission of any specified sex
18 offense while armed with a firearm or deadly weapon (subd. (b),
19 Sec. 12022.3, Pen. C.).

20 (d) The provisions listed in this subdivision imposing a
21 sentence enhancement of 16 months, or two or three years'
22 imprisonment in the state prison may be referenced as Schedule D.

23 (1) Knowing failure to register pursuant to Section 186.30 and
24 subsequent conviction or violation of Section 186.30, as specified
25 (para. (1), subd. (b), Sec. 186.33, Pen. C.).

26 (e) The provisions listed in this subdivision imposing a
27 sentence enhancement of two years' imprisonment in the state
28 prison may be referenced as Schedule E.

29 (1) Money laundering when the value of the transactions
30 exceeds one hundred fifty thousand dollars (\$150,000), but is less
31 than one million dollars (\$1,000,000) (subpara. (B), para. (1),
32 subd. (c), Sec. 186.10, Pen. C.).

33 (2) Commission of two or more related felonies, a material
34 element of which is fraud or embezzlement, which involve a
35 pattern of related felony conduct, involving the taking of more
36 than one hundred fifty thousand dollars (\$150,000) (para. (3),
37 subd. (a), Sec. 186.11, Pen. C.).

38 (3) Conviction of any specified felony sex offense that is
39 committed after fleeing to this state under specified circumstances
40 (subd. (d), Sec. 289.5, Pen. C.).

1 (4) Prior conviction of any specified insurance fraud offense
2 with current conviction of willfully injuring, destroying,
3 secreting, abandoning, or disposing of any property insured
4 against loss or damage by theft, embezzlement, or any casualty
5 with the intent to defraud or prejudice the insurer (subd. (b), Sec.
6 548, Pen. C.).

7 (5) Prior conviction of any specified insurance fraud offense
8 with current conviction of knowingly presenting any false or
9 fraudulent insurance claim or multiple claims for the same loss or
10 injury, or knowingly causing or participating in a vehicular
11 collision for the purpose of presenting any false or fraudulent
12 claim, or providing false or misleading information or concealing
13 information for purpose of insurance fraud (subd. (e), Sec. 550,
14 Pen. C.).

15 (6) Causing serious bodily injury as a result of knowingly
16 causing or participating in a vehicular collision or accident for the
17 purpose of presenting any false or fraudulent claim (subd. (g), Sec.
18 550, Pen. C.).

19 (7) Harming, obstructing, or interfering with any horse or dog
20 being used by any peace officer in the discharge or attempted
21 discharge of his or her duties and, with the intent to cause great
22 bodily injury, personally causing great bodily injury to any person
23 other than an accomplice (subd. (d), Sec. 600, Pen. C.).

24 (8) Prior conviction of any specified offense with current
25 conviction of any of those offenses committed against a person
26 who is 65 years of age or older, blind, a paraplegic or quadriplegic,
27 or under 14 years of age (subd. (b), Sec. 667.9, Pen. C.).

28 (9) Prior conviction for sexual penetration with current
29 conviction of the same offense committed against a person who is
30 65 years of age or older, blind, deaf, developmentally disabled, a
31 paraplegic or quadriplegic, or under 14 years of age (subd. (a), Sec.
32 667.10, Pen. C.).

33 (10) Showing child pornography to a minor prior to or during
34 the commission or attempted commission of continuous sexual
35 abuse of the minor (subd. (b), Sec. 667.15, Pen. C.).

36 (11) Primary care provider in a day care facility committing
37 any specified felony sex offense against a minor entrusted to his
38 or her care (subd. (a), Sec. 674, Pen. C.).

1 (12) Commission of a felony offense while released from
2 custody on bail or own recognizance (subd. (b), Sec. 12022.1, Pen.
3 C.).

4 (13) Taking, damaging, or destroying any property in the
5 commission or attempted commission of a felony with the intent
6 to cause that taking, damage, or destruction when the loss exceeds
7 one hundred fifty thousand dollars (\$150,000) (para. (2), subd. (a),
8 Sec. 12022.6, Pen. C.).

9 (14) Inducing, employing, or using a minor to commit a drug
10 offense involving heroin, cocaine, or cocaine base, or unlawfully
11 furnishing one of these controlled substances to a minor, upon, or
12 within 1,000 feet of, the grounds of a school during school hours
13 or whenever minors are using the facility (para. (2), subd. (a), Sec.
14 11353.1, H.& S.C.).

15 (15) Inducing another person to commit a drug offense as part
16 of the drug transaction for which the defendant is convicted when
17 the value of the controlled substance involved exceeds two million
18 dollars (\$2,000,000) (para. (2), subd. (a), Sec. 11356.5, H.& S.C.).

19 (16) Manufacturing, compounding, converting, producing,
20 deriving, processing, or preparing methamphetamine or
21 phencyclidine (PCP), or attempting to commit any of those acts,
22 or possessing specified combinations of substances with the intent
23 to manufacture either methamphetamine or phencyclidine (PCP),
24 when the commission or attempted commission of the crime
25 occurs in a structure where any child under 16 years of age is
26 present (subd. (a), Sec. 11379.7, H.& S.C.).

27 (17) Using a minor to commit a drug offense involving
28 phencyclidine (PCP), methamphetamine, or lysergic acid
29 diethylamide (LSD), or unlawfully furnishing one of these
30 controlled substances to a minor, upon, or within 1,000 feet of, the
31 grounds of a school during school hours or whenever minors are
32 using the facility (para. (2), subd. (a), Sec. 11380.1, H.& S.C.).

33 (18) Prior felony conviction of any specified insurance fraud
34 offense with a current conviction of making false or fraudulent
35 statements concerning a workers' compensation claim (subd. (c),
36 Sec. 1871.4, Ins. C.).

37 (19) Prior felony conviction of making or causing to be made
38 any knowingly false or fraudulent statement of any fact material
39 to the determination of the premium, rate, or cost of any policy of
40 workers' compensation insurance for the purpose of reducing the



premium, rate, or cost of the insurance with a current conviction of the same offense (subd. (b), Sec. 11760, Ins. C.).

(20) Prior felony conviction of making or causing to be made any knowingly false or fraudulent statement of any fact material to the determination of the premium, rate, or cost of any policy of workers' compensation insurance issued or administered by the State Compensation Insurance Fund for the purpose of reducing the premium, rate, or cost of the insurance with a current conviction of the same offense (subd. (b), Sec. 11880, Ins. C.).

(21) Fraudulently appropriating food stamps, electronically transferred benefits, or authorizations to participate in the federal Food Stamp Program entrusted to a public employee, or knowingly using, transferring, selling, purchasing, or possessing, any of the same in an unauthorized manner, when the offense is committed by means of an electronic transfer of benefits in an amount exceeding one hundred fifty thousand dollars (\$150,000), but less than one million dollars (\$1,000,000) (subpara. (B), para. (1), subd. (h), Sec. 10980, W.& I.C.).

(f) The provisions listed in this subdivision imposing a sentence enhancement of two, three, or four years' imprisonment in the state prison may be referenced as Schedule F.

(1) Commission of a felony, other than a serious or violent felony, for the benefit of, at the direction of, or in association with, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members (subpara. (A), para. (1), subd. (b), Sec. 186.22, Pen. C.).

(2) Acting in concert with another person or aiding or abetting another person in committing or attempting to commit a felony hate crime (subd. (c), Sec. 422.75, Pen. C.).

(3) Carrying a loaded or unloaded firearm together with a detachable shotgun magazine, a detachable pistol magazine, a detachable magazine, or a belt-feeding device during the commission or attempted commission of any felony street gang crime (subd. (b), Sec. 12021.5, Pen. C.).

(g) The provisions listed in this subdivision imposing a sentence enhancement of two, three, or five years' imprisonment in the state prison may be referenced as Schedule G.

(1) Commission of two or more related felonies, a material element of which is fraud or embezzlement, which involve a pattern of related felony conduct, involving the taking of more

1 than five hundred thousand dollars (\$500,000) (para. (2), subd.
2 (a), Sec. 186.11, Pen. C.).

3 (h) The provisions listed in this subdivision imposing a
4 sentence enhancement of three years' imprisonment in the state
5 prison may be referenced as Schedule H.

6 (1) Money laundering when the value of transactions exceeds
7 one million dollars (\$1,000,000), but is less than two million five
8 hundred thousand dollars (\$2,500,000) (subpara. (C), para. (1),
9 subd. (c), Sec. 186.10, Pen. C.).

10 (2) Solicitation, recruitment, or coercion, of a minor to actively
11 participate in a criminal street gang (subd. (d), Sec. 186.26, Pen.
12 C.).

13 (3) Willfully mingling any poison or harmful substance which
14 may cause death if ingested, or which causes the infliction of great
15 bodily injury on any person, with any food, drink, medicine, or
16 pharmaceutical product or willfully placing that poison or harmful
17 substance in any spring, well, reservoir, or public water supply
18 (para. (2), subd. (a), Sec. 347, Pen. C.).

19 (4) Causing great bodily injury by willfully causing or
20 permitting any elder or dependent adult to suffer, or inflicting pain
21 or mental suffering upon, or endangering the health of, an elder or
22 dependent adult when the victim is under 70 years of age (subpara.
23 (A), para. (2), subd. (b), Sec. 368, Pen. C.).

24 (5) Maliciously driving or placing, in any tree, saw-log,
25 shingle-bolt, or other wood, any iron, steel, ceramic, or other
26 substance sufficiently hard to injure saws and causing bodily
27 injury to another person other than an accomplice (subd. (b), Sec.
28 593a, Pen. C.).

29 (6) Prior prison term for violent felony with current violent
30 felony conviction (subd. (a), Sec. 667.5, Pen. C.).

31 (7) Commission of any specified felony sex offense by a
32 primary care provider in a day care facility against a minor
33 entrusted to his or her care while voluntarily acting in concert with
34 another (subd. (b), Sec. 674, Pen. C.).

35 (8) Commission or attempted commission of a felony while
36 armed with an assault weapon or a machinegun (para. (2), subd.
37 (a), Sec. 12022, Pen. C.).

38 (9) Taking, damaging, or destroying any property in the
39 commission or attempted commission of a felony with the intent
40 to cause that taking, damage, or destruction when the loss exceeds



1 one million dollars (\$1,000,000) (para. (3), subd. (a), Sec.
2 12022.6, Pen. C.).

3 (10) Personally inflicting great bodily injury on any person
4 other than an accomplice in the commission or attempted
5 commission of a felony (subd. (a), Sec. 12022.7, Pen. C.).

6 (11) Administering by injection, inhalation, ingestion, or any
7 other means, any specified controlled substance against the
8 victim's will by means of force, violence, or fear of immediate and
9 unlawful bodily injury to the victim or another person for the
10 purpose of committing a felony (Sec. 12022.75, Pen. C.).

11 (12) Commission of any specified sex offense with knowledge
12 that the defendant has acquired immune deficiency syndrome
13 (AIDS) or with the knowledge that he or she carries antibodies of
14 the human immunodeficiency virus at the time of the commission
15 of the offense (subd. (a), Sec. 12022.85, Pen. C.).

16 (13) Inducing another person to commit a drug offense as part
17 of the drug transaction for which the defendant is convicted when
18 the value of the controlled substance involved exceeds five million
19 dollars (\$5,000,000) (para. (3), subd. (a), Sec. 11356.5, H.& S.C.).

20 (14) Prior conviction of any specified drug offense with current
21 conviction of any specified drug offense (subds. (a), (b), and (c),
22 Sec. 11370.2, H.& S.C.).

23 (15) Commission of any specified drug offense involving a
24 substance containing heroin, cocaine base, cocaine,
25 methamphetamine, amphetamine, or phencyclidine (PCP), when
26 the substance exceeds one kilogram or 30 liters (para. (1), subd.
27 (a), and para. (1), subd. (b), Sec. 11370.4, H.& S.C.).

28 (16) Manufacturing, compounding, converting, producing,
29 deriving, processing, or preparing any substance containing
30 amphetamine, methamphetamine, or phencyclidine (PCP) or its
31 analogs or precursors, or attempting to commit any of those acts,
32 when the substance exceeds three gallons or one pound (para. (1),
33 subd. (a), Sec. 11379.8, H.& S.C.).

34 (17) Four or more prior convictions of specified
35 alcohol-related vehicle offenses with current conviction of driving
36 under the influence and causing great bodily injury (subd. (c), Sec.
37 23566, Veh. C.).

38 (18) Fraudulently appropriating food stamps, electronically
39 transferred benefits, or authorizations to participate in the federal
40 Food Stamp Program entrusted to a public employee, or

1 knowingly using, transferring, selling, purchasing, or possessing,
2 any of the same in an unauthorized manner, when the offense is
3 committed by means of an electronic transfer of benefits in an
4 amount exceeding one million dollars (\$1,000,000), but less than
5 two million five hundred thousand dollars (\$2,500,000) (subpara.
6 (C), para. (1), subd. (h), Sec. 10980, W.& I.C.).

7 (i) The provisions listed in this subdivision imposing a
8 sentence enhancement of three, four, or five years' imprisonment
9 in the state prison may be referenced as Schedule I.

10 (1) Commission of felony arson with prior conviction of arson
11 or unlawfully starting a fire, or causing great bodily injury to a
12 firefighter, peace officer, other emergency personnel, or multiple
13 victims, or causing the burning of multiple structures, or using an
14 accelerator or ignition delay device (subd. (a), Sec. 451.1, Pen.
15 C.).

16 (2) Commission or attempted commission of any specified
17 drug offense while personally armed with a firearm (subd. (c), Sec.
18 12022, Pen. C.).

19 (3) Personally inflicting great bodily injury under
20 circumstances involving domestic violence in the commission or
21 attempted commission of a felony (subd. (e), Sec. 12022.7, Pen.
22 C.).

23 (4) Commission of any specified drug offense involving
24 cocaine base, heroin, or methamphetamine, or a conspiracy to
25 commit any of those offenses, upon the grounds of, or within 1,000
26 feet of, a school during school hours or when minors are using the
27 facility (subd. (b), Sec. 11353.6, H.& S.C.).

28 (5) Commission of any specified drug offense involving
29 cocaine base, heroin, or methamphetamine, or a conspiracy to
30 violate any of those offenses, involving a minor who is at least four
31 years younger than the defendant (subd. (c), Sec. 11353.6, H.&
32 S.C.).

33 (j) The provisions listed in this subdivision imposing a
34 sentence enhancement of 3, 4, or 10 years' imprisonment in the
35 state prison may be referenced as Schedule J.

36 (1) Commission or attempted commission of any felony while
37 armed with a firearm and in the immediate possession of
38 ammunition for the firearm designed primarily to penetrate metal
39 or armor (subd. (a), Sec. 12022.2, Pen. C.).

(2) Commission or attempted commission of any specified sex offense while using a firearm or deadly weapon (subd. (a), Sec. 12022.3, Pen. C.).

(3) Commission or attempted commission of a felony while personally using a firearm (para. (1), subd. (a), Sec. 12022.5, Pen. C.).

(4) Commission or attempted commission of any specified drug offense while personally using a firearm (subd. (c), Sec. 12022.5, Pen. C.).

(k) The provisions listed in this subdivision imposing a sentence enhancement of four years' imprisonment in the state prison may be referenced as Schedule K.

(1) Money laundering when the value of transactions exceeds two million five hundred thousand dollars (\$2,500,000) (subpara. (D), para. (1), subd. (c), Sec. 186.10, Pen. C.).

(2) Prior conviction of willfully inflicting upon a child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition with current conviction of that offense (subd. (b), Sec. 273d, Pen. C.).

(3) Taking, damaging, or destroying any property in the commission or attempted commission of a felony with the intent to cause that taking, damage, or destruction when the loss exceeds two million five hundred thousand dollars (\$2,500,000) (para. (4), subd. (a), Sec. 12022.6, Pen. C.).

(4) Personally, willfully, and maliciously discharging a firearm from a motor vehicle at another person other than an occupant of a motor vehicle and causing a victim to suffer paralysis or paraparesis of a major body part (para. (1), subd. (b), Sec. 12022.9, Pen. C.).

(5) Personally, willfully, and maliciously discharging a firearm from a motor vehicle at another occupied motor vehicle and causing a victim to suffer paralysis or paraparesis of a major body part (para. (2), subd. (b), Sec. 12022.9, Pen. C.).

(6) Willfully causing or permitting any child to suffer, or inflicting on the child unjustifiable physical pain or injury that results in death under circumstances or conditions likely to produce great bodily harm or death, or, having the care or custody of any child, willfully causing or permitting that child to be injured or harmed under circumstances likely to produce great bodily

1 harm or death, when that injury or harm results in death (Sec.
2 12022.95, Pen. C.).

3 (7) Fraudulently appropriating food stamps, electronically
4 transferred benefits, or authorizations to participate in the federal
5 Food Stamp Program entrusted to a public employee, or
6 knowingly using, transferring, selling, purchasing, or possessing,
7 any of the same in an unauthorized manner, when the offense is
8 committed by means of an electronic transfer of benefits in an
9 amount exceeding two million five hundred thousand dollars
10 (\$2,500,000) (subpara. (D), para. (1), subd. (h), Sec. 10980, W.&
11 I.C.).

12 (8) Execution of a scheme or artifice to defraud the Medi-Cal
13 program or any other health care program administered by the
14 State Department of Health Services or its agents or contractors,
15 or to obtain under false or fraudulent pretenses, representations, or
16 promises any property owned by or under the custody of the
17 Medi-Cal program or any health care program administered by the
18 department, its agents, or contractors under circumstances likely
19 to cause or that do cause two or more persons great bodily injury
20 (subd. (d), Sec. 14107, W.& I.C.).

21 (l) The provisions listed in this subdivision imposing a
22 sentence enhancement of four, five, or six years' imprisonment in
23 the state prison may be referenced as Schedule L.

24 (1) Personally inflicting great bodily injury on a child under the
25 age of five years in the commission or attempted commission of
26 a felony (subd. (d), Sec. 12022.7, Pen. C.).

27 (m) The provisions listed in this subdivision imposing a
28 sentence enhancement of 4, 5, or 10 years' imprisonment in the
29 state prison may be referenced as Schedule M.

30 (1) Commission or attempted commission of a felony while
31 personally using a firearm with prior conviction of carjacking or
32 attempted carjacking (para. (2), subd. (a), Sec. 12022.5, Pen. C.).

33 (n) The provisions listed in this subdivision imposing a
34 sentence enhancement of five years' imprisonment in the state
35 prison may be referenced as Schedule N.

36 (1) Commission of a serious felony for the benefit of, at the
37 direction of, or in association with, any criminal street gang, with
38 the specific intent to promote, further, or assist in any criminal
39 conduct by gang members (subpara. (B), para. (1), subd. (b), Sec.
40 186.22, Pen. C.).



1 (2) Using sex offender registration information to commit a
2 felony (para. (1), subd. (q), Sec. 290, and para. (1), subd. (b), Sec.
3 290.4, Pen. C.).

4 (3) Causing great bodily injury by willfully causing or
5 permitting any elder or dependent adult to suffer, or inflicting pain
6 or mental suffering upon, or endangering the health of, an elder or
7 dependent adult when the victim is 70 years of age or older
8 (subpara. (B), para. (2), subd. (b), Sec. 368, Pen. C.).

9 (4) Causing death by willfully causing or permitting any elder
10 or dependent adult to suffer, or inflicting pain or mental suffering
11 upon, or endangering the health of, an elder or dependent adult
12 when the victim is under 70 years of age (subpara. (A), para. (3),
13 subd. (b), Sec. 368, Pen. C.).

14 (5) Two prior felony convictions of knowingly causing or
15 participating in a vehicular collision or accident for the purpose of
16 presenting any false or fraudulent claim with current conviction of
17 the same (subd. (f), Sec. 550, Pen. C.).

18 (6) Prior conviction of a serious felony with current conviction
19 of a serious felony (para. (1), subd. (a), Sec. 667, Pen. C.).

20 (7) Prior conviction of any specified sex offense with current
21 conviction of lewd and lascivious acts with a child under 14 years
22 of age (subd. (a), Sec. 667.51, Pen. C.).

23 (8) Prior conviction of any specified sex offense with current
24 conviction of any of those sex offenses (subd. (a), Sec. 667.6, Pen.
25 C.).

26 (9) Kidnapping or carrying away any child under 14 years of
27 age with the intent to permanently deprive the parent or legal
28 guardian custody of that child (Sec. 667.85, Pen. C.).

29 (10) Personally inflicting great bodily injury on any person
30 other than an accomplice in the commission or attempted
31 commission of a felony that causes the victim to become comatose
32 due to a brain injury or to suffer paralysis of a permanent nature
33 (subd. (b), Sec. 12022.7, Pen. C.).

34 (11) Personally inflicting great bodily injury on another person
35 who is 70 years of age or older other than an accomplice in the
36 commission or attempted commission of a felony (subd. (c), Sec.
37 12022.7, Pen. C.).

38 (12) Inflicting great bodily injury on any victim in the
39 commission or attempted commission of any specified sex offense
40 (Sec. 12022.8, Pen. C.).

1 (13) Personally and intentionally inflicting injury upon a
2 pregnant woman during the commission or attempted commission
3 of a felony that results in the termination of the pregnancy when
4 the defendant knew or reasonably should have known that the
5 victim was pregnant (subd. (a), Sec. 12022.9, Pen. C.).

6 (14) Using information disclosed to the licensee of a
7 community care facility by a prospective client regarding his or her
8 status as a sex offender to commit a felony (subd. (c), Sec. 1522.01,
9 H.& S.C.).

10 (15) Commission of any specified drug offense involving a
11 substance containing heroin, cocaine base, cocaine,
12 methamphetamine, amphetamine, or phencyclidine (PCP), when
13 the substance exceeds 4 kilograms or 100 liters (para. (2), subd.
14 (a), and para. (2), subd. (b), Sec. 11370.4, H.& S.C.).

15 (16) Manufacturing, compounding, converting, producing,
16 deriving, processing, or preparing methamphetamine or
17 phencyclidine (PCP), or attempting to commit any of those acts,
18 or possessing specified combinations of substances with the intent
19 to manufacture either methamphetamine or phencyclidine (PCP),
20 when the commission of the crime causes any child under 16 years
21 of age to suffer great bodily injury (subd. (b), Sec. 11379.7, H.&
22 S.C.).

23 (17) Manufacturing, compounding, converting, producing,
24 deriving, processing, or preparing any substance containing
25 amphetamine, methamphetamine, or phencyclidine (PCP) or its
26 analogs or precursors, or attempting to commit any of those acts,
27 when the substance exceeds 10 gallons or three pounds (para. (2),
28 subd. (a), Sec. 11379.8, H.& S.C.).

29 (18) Fleeing the scene of the crime after commission of
30 vehicular manslaughter (subd. (c), Sec. 20001, Veh. C.).

31 (o) The provisions listed in this subdivision imposing a
32 sentence enhancement of 5, 6, or 10 years' imprisonment in the
33 state prison may be referenced as Schedule O.

34 (1) Discharging a firearm at an occupied motor vehicle in the
35 commission or attempted commission of a felony which caused
36 great bodily injury or death to another person (para. (1), subd. (b),
37 Sec. 12022.5, Pen. C.).

38 (2) Commission or attempted commission of a felony while
39 personally using an assault weapon or a machinegun (para. (2),
40 subd. (b), Sec. 12022.5, Pen. C.).



1 (3) Discharging a firearm from a motor vehicle in the
2 commission or attempted commission of a felony with the intent
3 to inflict great bodily injury or death and causing great bodily
4 injury or death (Sec. 12022.55, Pen. C.).

5 (p) The provisions listed in this subdivision imposing a
6 sentence enhancement of seven years' imprisonment in the state
7 prison may be referenced as Schedule P.

8 (1) Causing death by willfully causing or permitting any elder
9 or dependent adult to suffer, or inflicting pain or mental suffering
10 upon, or endangering the health of, an elder or dependent adult
11 when the victim is 70 years of age or older (subpara. (B), para. (3),
12 subd. (b), Sec. 368, Pen. C.).

13 (q) The provisions listed in this subdivision imposing a
14 sentence enhancement of nine years' imprisonment in the state
15 prison may be referenced as Schedule Q.

16 (1) Kidnapping a victim for the purpose of committing any
17 specified felony sex offense (subd. (a), Sec. 667.8, Pen. C.).

18 (r) The provisions listed in this subdivision imposing a
19 sentence enhancement of 10 years' imprisonment in the state
20 prison may be referenced as Schedule R.

21 (1) Commission of a violent felony for the benefit of, at the
22 direction of, or in association with, any criminal street gang, with
23 the specific intent to promote, further, or assist in any criminal
24 conduct by gang members (subpara. (C), para. (1), subd. (b), Sec.
25 186.22, Pen. C.).

26 (2) Two or more prior prison terms for any specified sex
27 offense with current conviction of any of those sex offenses (subd.
28 (b), Sec. 667.6, Pen. C.).

29 (3) Commission or attempted commission of any specified
30 felony offense while personally using a firearm (subd. (b), Sec.
31 12022.53, Pen. C.).

32 (4) Commission of any specified drug offense involving a
33 substance containing heroin, cocaine base, cocaine,
34 methamphetamine, amphetamine, or phencyclidine (PCP), when
35 the substance exceeds 10 kilograms or 200 liters (para. (3), subd.
36 (a), and para. (3), subd. (b), Sec. 11370.4, H.& S.C.).

37 (5) Manufacturing, compounding, converting, producing,
38 deriving, processing, or preparing any substance containing
39 amphetamine, methamphetamine, or phencyclidine (PCP) or its
40 analogs or precursors, or attempting to commit any of those acts,

1 when the substance exceeds 25 gallons or 10 pounds (para. (3),
2 subd. (a), Sec. 11379.8, H.& S.C.).

3 (s) The provisions listed in this subdivision imposing a
4 sentence enhancement of 15 years' imprisonment in the state
5 prison may be referenced as Schedule S.

6 (1) Kidnapping a victim under 14 years of age for the purpose
7 of committing any specified felony sex offense (subd. (b), Sec.
8 667.8, Pen. C.).

9 (2) Commission of any specified drug offense involving a
10 substance containing heroin, cocaine base, cocaine,
11 methamphetamine, amphetamine, or phencyclidine (PCP), when
12 the substance exceeds 20 kilograms or 400 liters (para. (4), subd.
13 (a), and para. (4), subd. (b), Sec. 11370.4, H.& S.C.).

14 (3) Manufacturing, compounding, converting, producing,
15 deriving, processing, or preparing any substance containing
16 amphetamine, methamphetamine, or phencyclidine (PCP) or its
17 analogs or precursors, or attempting to commit any of those acts,
18 when the substance exceeds 105 gallons or 44 pounds (para. (4),
19 subd. (a), Sec. 11379.8, H.& S.C.).

20 (t) The provisions listed in this subdivision imposing a
21 sentence enhancement of 20 years' imprisonment in the state
22 prison may be referenced as Schedule T.

23 (1) Intentionally and personally discharging a firearm in the
24 commission or attempted commission of any specified felony
25 offense (subd. (c), Sec. 12022.53, Pen. C.).

26 (2) Commission of any specified drug offense involving a
27 substance containing heroin, cocaine base, or cocaine, when the
28 substance exceeds 40 kilograms (para. (5), subd. (a), Sec. 11370.4,
29 H.& S.C.).

30 (u) The provisions listed in this subdivision imposing a
31 sentence enhancement of 25 years' imprisonment in the state
32 prison may be referenced as Schedule U.

33 (1) Commission of any specified drug offense involving a
34 substance containing heroin, cocaine base, or cocaine, when the
35 substance exceeds 80 kilograms (para. (6), subd. (a), Sec. 11370.4,
36 H.& S.C.).

37 (v) The provisions listed in this subdivision imposing a
38 sentence enhancement of 25 years to life imprisonment in the state
39 prison may be referenced as Schedule V.



(1) Intentionally and personally discharging a firearm in the commission or attempted commission of any specified felony offense and proximately causing great bodily injury to any person other than an accomplice (subd. (d), Sec. 12022.53, Pen. C.).

SEC. 2. Section 11106 of the Penal Code is amended to read:

~~11106. (a) In order to assist in the investigation of crime, the prosecution of civil actions by city attorneys pursuant to paragraph (3) of subdivision (c), the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of all copies of fingerprints, copies of applications for licenses to carry firearms issued pursuant to Section 12050, information reported to the Department of Justice pursuant to Section 12053, dealers' records of sales of firearms, reports provided pursuant to Section 12072 or 12078, forms provided pursuant to Section 12084, reports provided pursuant to Section 12071 that are not dealers' records of sales of firearms, and reports of stolen, lost, found, pledged, or pawned property in any city or county of this state, and shall, upon proper application therefor, furnish to the officers mentioned in Section 11105, hard copy printouts of those records as photographic, photostatic, and nonerasable optically stored reproductions.~~

~~(b) (1) Notwithstanding subdivision (a), the Attorney General shall not retain or compile any information from reports filed pursuant to subdivision (a) of Section 12078 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, from forms submitted pursuant to Section 12084 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, or from dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person. All copies of the forms submitted, or any information received in electronic form, pursuant to Section 12084 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, or of the dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of the clearance by the Attorney General, unless the purchaser or transferor is ineligible to take possession of the firearm. All copies of the reports filed, or any information received in electronic form,~~

1 pursuant to subdivision (a) of Section 12078 for firearms that are
2 not pistols, revolvers, or other firearms capable of being concealed
3 upon the person shall be destroyed within five days of the receipt
4 by the Attorney General, unless retention is necessary for use in a
5 criminal prosecution.

6 ~~(2) A peace officer, the Attorney General, a Department of~~
7 ~~Justice employee designated by the Attorney General, or any~~
8 ~~authorized local law enforcement employee shall not retain or~~
9 ~~compile any information from a firearms transaction record, as~~
10 ~~defined in paragraph (5) of subdivision (c) of Section 12071, for~~
11 ~~firearms that are not pistols, revolvers, or other firearms capable~~
12 ~~of being concealed upon the person unless retention or compilation~~
13 ~~is necessary for use in a criminal prosecution or in a proceeding to~~
14 ~~revoke a license issued pursuant to Section 12071.~~

15 ~~(3) A violation of this subdivision is a misdemeanor.~~

16 ~~(c) (1) The Attorney General shall permanently keep and~~
17 ~~properly file and maintain all information reported to the~~
18 ~~Department of Justice pursuant to Sections 12071, 12072, 12077,~~
19 ~~12078, 12082, and 12084 or any other law, as to pistols, revolvers,~~
20 ~~or other firearms capable of being concealed upon the person and~~
21 ~~maintain a registry thereof.~~

22 ~~(2) The registry shall consist of all of the following:~~

23 ~~(A) The name, address, identification of, place of birth (state or~~
24 ~~country), complete telephone number, occupation, sex,~~
25 ~~description, and all legal names and aliases ever used by the owner~~
26 ~~or person being loaned the particular pistol, revolver, or other~~
27 ~~firearm capable of being concealed upon the person as listed on the~~
28 ~~information provided to the department on the Dealers' Record of~~
29 ~~Sale, the Law Enforcement Firearms Transfer (LEFT), as defined~~
30 ~~in Section 12084, or reports made to the department pursuant to~~
31 ~~Section 12078 or any other law.~~

32 ~~(B) The name and address of, and other information about, any~~
33 ~~person (whether a dealer or a private party) from whom the owner~~
34 ~~acquired or the person being loaned the particular pistol, revolver,~~
35 ~~or other firearm capable of being concealed upon the person and~~
36 ~~when the firearm was acquired or loaned as listed on the~~
37 ~~information provided to the department on the Dealers' Record of~~
38 ~~Sale, the LEFT, or reports made to the department pursuant to~~
39 ~~Section 12078 or any other law.~~

~~(C) Any waiting period exemption applicable to the transaction which resulted in the owner of or the person being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person acquiring or being loaned that firearm.~~

~~(D) The manufacturer's name if stamped on the firearm; model name or number if stamped on the firearm; and, if applicable, the serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, and color of the firearm.~~

~~(E) Any information that the department deems necessary pursuant to paragraph (4) of subdivision (b) of Section 12077.~~

~~(3) Information in the registry referred to in this subdivision shall, upon proper application therefor, be furnished to the officers referred to in Section 11105, to a city attorney prosecuting a civil action, solely for use in prosecuting that civil action and not for any other purpose, or to the person listed in the registry as the owner or person who is listed as being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person in the form of hard copy printouts of that information as photographic, photostatic, and nonerasable optically stored reproductions.~~

~~(4) If any person is listed in the registry as the owner of a firearm through a Dealers' Record of Sale prior to 1979, and the person listed in the registry requests by letter that the Attorney General store and keep the record electronically, as well as in the record's existing photographic, photostatic, or nonerasable optically stored form, the Attorney General shall do so within three working days of receipt of the request. The Attorney General shall, in writing, and as soon as practicable, notify the person requesting electronic storage of the record that the request has been honored as required by this paragraph.~~

~~SEC. 2.5.—Section 11108.3 of the Penal Code is amended to read:~~

~~11108.3. (a) In addition to the requirements of Section 11108 that apply to a local law enforcement agency's duty to report to the Department of Justice the recovery of a firearm, a police or sheriff's department shall, and any other law enforcement agency or agent may, report to the department in a manner determined by the Attorney General in consultation with the Bureau of Alcohol, Tobacco, and Firearms all available information necessary to~~

1 identify and trace the history of all firearms that are illegally
2 possessed, have been used in a crime, or are suspected of having
3 been used in a crime. In addition, any law enforcement agency or
4 agent may report to the Attorney General pursuant to this section
5 all information pertaining to any firearm taken into custody,
6 except where the firearm has been voluntarily placed with the law
7 enforcement agency for safekeeping.

8 (b) When the department receives information from a local law
9 enforcement agency pursuant to subdivision (a), it shall promptly
10 forward this information to the National Tracing Center of the
11 federal Bureau of Alcohol, Tobacco, and Firearms to the extent
12 practicable.

13 (c) The Department of Justice shall implement an electronic
14 system by January 1, 2002, to receive comprehensive tracing
15 information from each local law enforcement agency, and to
16 forward this information to the National Tracing Center.

17 (d) In implementing this section, the Attorney General shall
18 ensure to the maximum extent practical that both of the following
19 apply:

20 (1) The information he or she provides to the federal Bureau of
21 Alcohol, Tobacco, and Firearms enables that agency to trace the
22 ownership of the firearm described in subdivision (a).

23 (2) Local law enforcement agencies can report all relevant
24 information without being unduly burdened by this reporting
25 function.

26 (e) Information collected pursuant to this section shall be
27 maintained by the department for a period of not less than 10 years,
28 and shall be available, under guidelines set forth by the Attorney
29 General, for academic and policy research purposes.

30 (f) The Attorney General shall have the authority to issue
31 regulations to further the purposes of this section.

32 SEC. 3. Section 12021 of the Penal Code is amended to read:

33 12021. (a) (1) Any person who has been convicted of a
34 felony under the laws of the United States, of the State of
35 California, or any other state, government, or country, or of an
36 offense enumerated in subdivision (a), (b), or (d) of Section
37 12001.6, or who is addicted to the use of any narcotic drug, who
38 owns or has in his or her possession or under his or her custody or
39 control any firearm is guilty of a felony.

(2) Any person who has two or more convictions for violating paragraph (2) of subdivision (a) of Section 417 and who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c) (1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 422, 626.9, 646.9, 12023, or 12024, subdivision (b) or (d) of Section 12034, Section 12040, subdivision (b) of Section 12072, subdivision (a) of former Section 12100, Section 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished in paragraph (3) of subdivision (g) of Section 12072, and who, within 10 years of the conviction, owns, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. However, the prohibition in this paragraph may be reduced, eliminated, or conditioned as provided in paragraph (2) or (3).

(2) Any person employed as a peace officer described in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by this subdivision because of a conviction under Section 273.5, 273.6, or 646.9, may petition the court only once for relief from this

1 prohibition. The petition shall be filed with the court in which the
2 petitioner was sentenced. If possible, the matter shall be heard
3 before the same judge that sentenced the petitioner. Upon filing the
4 petition, the clerk of the court shall set the hearing date and shall
5 notify the petitioner and the prosecuting attorney of the date of the
6 hearing. Upon making each of the following findings, the court
7 may reduce or eliminate the prohibition, impose conditions on
8 reduction or elimination of the prohibition, or otherwise grant
9 relief from the prohibition as the court deems appropriate:

10 (A) Finds by a preponderance of the evidence that the
11 petitioner is likely to use a firearm in a safe and lawful manner.

12 (B) Finds that the petitioner is not within a prohibited class as
13 specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1,
14 and the court is not presented with any credible evidence that the
15 petitioner is a person described in Section 8100 or 8103 of the
16 Welfare and Institutions Code.

17 (C) Finds that the petitioner does not have a previous
18 conviction under this subdivision no matter when the prior
19 conviction occurred.

20 In making its decision, the court shall consider the petitioner's
21 continued employment, the interest of justice, any relevant
22 evidence, and the totality of the circumstances. The court shall
23 require, as a condition of granting relief from the prohibition under
24 this section, that the petitioner agree to participate in counseling
25 as deemed appropriate by the court. Relief from the prohibition
26 shall not relieve any other person or entity from any liability that
27 might otherwise be imposed. It is the intent of the Legislature that
28 courts exercise broad discretion in fashioning appropriate relief
29 under this paragraph in cases in which relief is warranted.
30 However, nothing in this paragraph shall be construed to require
31 courts to grant relief to any particular petitioner. It is the intent of
32 the Legislature to permit persons who were convicted of an offense
33 specified in Section 273.5, 273.6, or 646.9 to seek relief from the
34 prohibition imposed by this subdivision.

35 (3) Any person who is subject to the prohibition imposed by
36 this subdivision because of a conviction of an offense prior to that
37 offense being added to paragraph (1) may petition the court only
38 once for relief from this prohibition. The petition shall be filed
39 with the court in which the petitioner was sentenced. If possible,
40 the matter shall be heard before the same judge that sentenced the

petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision, no matter when the prior conviction occurred.

In making its decision, the court may consider the interest of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner.

(4) Law enforcement officials who enforce the prohibition specified in this subdivision against a person who has been granted relief pursuant to paragraph (2) or (3) shall be immune from any liability for false arrest arising from the enforcement of this subdivision unless the person has in his or her possession a certified copy of the court order that granted the person relief from the prohibition. This immunity from liability shall not relieve any person or entity from any other liability that might otherwise be imposed.

(d) (1) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, or has in his or her possession or under his or her custody or control, any firearm but who is not subject to subdivision (a) or (c) is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not

1 exceeding one thousand dollars (\$1,000), or by both that
2 imprisonment and fine. The court, on forms provided by the
3 Department of Justice, shall notify the department of persons
4 subject to this subdivision. The notice shall include a copy of the
5 order of probation and a copy of any minute order or abstract
6 reflecting the order and conditions of probation.

7 (2) For any person who is subject to subdivision (a), (b), or (c),
8 the court shall, at the time judgment is imposed, provide on a form
9 supplied by the Department of Justice, a notice to the defendant
10 prohibited by this section from owning, possessing or having
11 under his or her custody or control, any firearm. The notice shall
12 inform the defendant of the prohibition regarding firearms and
13 include a form to facilitate the transfer of firearms. Failure to
14 provide the notice shall not be a defense to a violation of this
15 section.

16 (e) Any person who (1) is alleged to have committed an offense
17 listed in subdivision (b) of Section 707 of the Welfare and
18 Institutions Code, an offense described in subdivision (b) of
19 Section 1203.073, or any offense enumerated in paragraph (1) of
20 subdivision (c), and (2) is subsequently adjudged a ward of the
21 juvenile court within the meaning of Section 602 of the Welfare
22 and Institutions Code because the person committed an offense
23 listed in subdivision (b) of Section 707 of the Welfare and
24 Institutions Code, an offense described in subdivision (b) of
25 Section 1203.073, or any offense enumerated in paragraph (1) of
26 subdivision (c) shall not own, or have in his or her possession or
27 under his or her custody or control, any firearm until the age of 30
28 years. A violation of this subdivision shall be punishable by
29 imprisonment in a county jail not exceeding one year or in the state
30 prison, by a fine not exceeding one thousand dollars (\$1,000), or
31 by both that imprisonment and fine. The juvenile court, on forms
32 prescribed by the Department of Justice, shall notify the
33 department of persons subject to this subdivision.
34 Notwithstanding any other law, the forms required to be submitted
35 to the department pursuant to this subdivision may be used to
36 determine eligibility to acquire a firearm.

37 (f) Subdivision (a) shall not apply to a person who has been
38 convicted of a felony under the laws of the United States unless
39 either of the following criteria is satisfied:

1 (1) Conviction of a like offense under California law can only
2 result in imposition of felony punishment.

3 (2) The defendant was sentenced to a federal correctional
4 facility for more than 30 days, or received a fine of more than one
5 thousand dollars (\$1,000), or received both punishments.

6 (g) (1) Every person who purchases or receives, or attempts to
7 purchase or receive, a firearm knowing that he or she is subject to
8 a protective order as defined in Section 6218 of the Family Code,
9 Section 136.2, or a temporary restraining order or injunction
10 issued pursuant to Section 527.6 or 527.8 of the Code of Civil
11 Procedure, is guilty of a public offense, which shall be punishable
12 by imprisonment in a county jail not exceeding one year or in the
13 state prison, by a fine not exceeding one thousand dollars (\$1,000),
14 or by both that imprisonment and fine. This subdivision does not
15 apply unless the copy of the restraining order personally served on
16 the person against whom the restraining order is issued contains a
17 notice in bold print stating (1) that the person is prohibited from
18 purchasing or receiving or attempting to purchase or receive a
19 firearm and (2) specifying the penalties for violating this
20 subdivision, or a court has provided actual verbal notice of the
21 firearm prohibition and penalty as provided in Section 6304 of the
22 Family Code.

23 (2) Every person who owns or possesses a firearm knowing that
24 he or she is prohibited from owning or possessing a firearm by the
25 provisions of a protective order as defined in Section 6218 of the
26 Family Code, Section 136.2 of the Penal Code, or a temporary
27 restraining order or injunction issued pursuant to Section 527.6 or
28 527.8 of the Code of Civil Procedure, is guilty of a public offense,
29 which shall be punishable by imprisonment in a county jail not
30 exceeding one year, by a fine not exceeding one thousand dollars
31 (\$1,000), or by both that imprisonment and fine. This subdivision
32 does not apply unless a copy of the restraining order personally
33 served on the person against whom the restraining order is issued
34 contains a notice in bold print stating (1) that the person is
35 prohibited from owning or possessing or attempting to own or
36 possess a firearm and (2) specifying the penalties for violating this
37 subdivision, or a court has provided actual verbal notice of the
38 firearm prohibition and penalty as provided in Section 6304 of the
39 Family Code.

(3) Judicial Council shall provide notice on all protective orders that the respondent is prohibited from owning, possessing, purchasing, or receiving a firearm while the protective order is in effect and that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed within a specified time of receipt of the order. The order shall also state on its face the expiration date for relinquishment.

(4) If probation is granted upon conviction of a violation of this subdivision, the court shall impose probation consistent with the provisions of Section 1203.097.

(h) (1) A violation of subdivision (a), (b), (c), (d), or (e) is justifiable where all of the following conditions are met:

(A) The person found the firearm or took the firearm from a person who was committing a crime against him or her.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the firearm to a law enforcement agency for that agency's disposition according to law.

(C) If the firearm was transported to a law enforcement agency, it was transported in accordance with paragraph (18) of subdivision (a) of Section 12026.2.

(D) If the firearm is being transported to a law enforcement agency, the person transporting the firearm has given prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency for disposition according to law.

(2) Upon the trial for violating subdivision (a), (b), (c), (d), or (e), the trier of fact shall determine whether the defendant was acting within the provisions of the exemption created by this subdivision.

(3) The defendant has the burden of proving by a preponderance of the evidence that he or she comes within the provisions of the exemption created by this subdivision.

(i) Subject to available funding, the Attorney General, working with the State Judicial Council, the California Alliance Against Domestic Violence, prosecutors, and law enforcement, probation, and parole officers, shall develop a protocol for the implementation of the provisions of this section. The protocol shall be designed to facilitate the enforcement of restrictions on firearm ownership, including provisions for giving notice to

defendants who are restricted, provisions for informing those defendants of the procedures by which defendants shall dispose of firearms when required to do so, provisions explaining how defendants shall provide proof of the lawful disposition of firearms, and provisions explaining how defendants may obtain possession of seized firearms when legally permitted to do so pursuant to this section or any other provision of law. The protocol shall be completed on or before January 1, 2005.

SEC. 4. Section 12028 of the Penal Code is amended to read:

12028. (a) The unlawful concealed carrying upon the person or within the vehicle of the carrier of any explosive substance, other than fixed ammunition, dirk, or dagger, as provided in Section 12020, the unlawful concealed carrying upon the person or within the vehicle of the carrier of any weapons in violation of Section 12025, and the unlawful possession or carrying of any item in violation of Section 653k is a nuisance.

(b) (1) Except as provided in paragraph (2), a firearm of any nature owned or possessed in violation of Section 12021, 12021.1, or 12101 or used in the commission of any misdemeanor as provided in this code, any felony, or an attempt to commit any misdemeanor as provided in this code or any felony, is, upon a conviction of the defendant or upon a juvenile court finding that an offense which would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, a nuisance. A finding that the defendant was guilty of the offense but was insane at the time the offense was committed is a conviction for the purposes of this section.

(2) A firearm is not a nuisance pursuant to this subdivision if the firearm owner disposes of his or her firearm pursuant to paragraph (2) of subdivision (d) of Section 12021.

(c) Any weapon described in subdivision (a), or, upon conviction of the defendant or upon a juvenile court finding that an offense which would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, any weapon described in subdivision (b) shall be surrendered to the sheriff of a county or the chief of police or other head of a municipal police department of any city or city and county or the chief of police of any campus of the University of California or the California State University or the Commissioner of the California Highway Patrol. For purposes of this subdivision,

1 the Commissioner of the California Highway Patrol shall receive
2 only weapons that were confiscated by a member of the California
3 Highway Patrol. The officers to whom the weapons are
4 surrendered, except upon the certificate of a judge of a court of
5 record, or of the district attorney of the county, that the retention
6 thereof is necessary or proper to the ends of justice, may annually,
7 between the 1st and 10th days of July, in each year, offer the
8 weapons, which the officers in charge of them consider to have
9 value with respect to sporting, recreational, or collection purposes,
10 for sale at public auction to persons licensed pursuant to Section
11 12071 to engage in businesses involving any weapon purchased.
12 If any weapon has been stolen and is thereafter recovered from the
13 thief or his or her transferee, or is used in such a manner as to
14 constitute a nuisance pursuant to subdivision (a) or (b) without the
15 prior knowledge of its lawful owner that it would be so used, it
16 shall not be so offered for sale but shall be restored to the lawful
17 owner, as soon as its use as evidence has been served, upon his or
18 her identification of the weapon and proof of ownership.

19 (d) If, under this section, a weapon is not of the type that can
20 be sold to the public, generally, or is not sold pursuant to
21 subdivision (c), the weapon, in the month of July, next succeeding,
22 or sooner, if necessary to conserve local resources including space
23 and utilization of personnel who maintain files and security of
24 those weapons, shall be destroyed so that it can no longer be used
25 as such a weapon except upon the certificate of a judge of a court
26 of record, or of the district attorney of the county, that the retention
27 of it is necessary or proper to the ends of justice.

28 (e) This section does not apply to any firearm in the possession
29 of the Department of Fish and Game or which was used in the
30 violation of any provision of the Fish and Game Code or any
31 regulation adopted pursuant thereto, or which is forfeited pursuant
32 to Section 5008.6 of the Public Resources Code.

33 (f) No stolen weapon shall be sold or destroyed pursuant to
34 subdivision (c) or (d) unless reasonable notice is given to its lawful
35 owner, if his or her identity and address can be reasonably
36 ascertained.

37 SEC. 5. Section 12074 of the Penal Code is amended to read:

38 12074. (a) The register shall be prepared by and obtained
39 from the State Printer and shall be furnished by the State Printer
40 only to dealers on application at a cost to be determined by the

1 Department of General Services for each 100 leaves in
2 quadruplicate, one original and three duplicates for the making of
3 carbon copies. The original and duplicate copies shall differ in
4 color, and shall be in the form provided by this article.

5 (b) Where the electronic transfer of applicant information is
6 used, the Department of Justice shall develop the standards for all
7 appropriate electronic equipment and telephone numbers to effect
8 the transfer of information to the department.

9 SEC. 6. Section 12077 of the Penal Code is amended to read:

10 12077. (a) The Department of Justice shall prescribe the
11 form of the register and the record of electronic transfer pursuant
12 to Section 12074.

13 (b) (1) For handguns, information contained in the register or
14 record of electronic transfer shall be the date and time of sale, make
15 of firearm, peace officer exemption status pursuant to subdivision
16 (a) of Section 12078 and the agency name, dealer waiting period
17 exemption pursuant to subdivision (n) of Section 12078,
18 dangerous weapons permit holder waiting period exemption
19 pursuant to subdivision (r) of Section 12078, curio and relic
20 waiting period exemption pursuant to subdivision (t) of Section
21 12078, California Firearms Dealer number issued pursuant to
22 Section 12071, for transactions occurring prior to January 1, 2003,
23 the purchaser's basic firearms safety certificate number issued
24 pursuant to Sections 12805 and 12809, for transactions occurring
25 on or after January 1, 2003, the purchaser's handgun safety
26 certificate number issued pursuant to Article 8 (commencing with
27 Section 12800), manufacturer's name if stamped on the firearm,
28 model name or number, if stamped on the firearm, if applicable,
29 serial number, other number (if more than one serial number is
30 stamped on the firearm), any identification number or mark
31 assigned to the firearm pursuant to Section 12092, caliber, type of
32 firearm, if the firearm is new or used, barrel length, color of the
33 firearm, full name of purchaser, purchaser's complete date of
34 birth, purchaser's local address, if current address is temporary,
35 complete permanent address of purchaser, identification of
36 purchaser, purchaser's place of birth (state or country),
37 purchaser's complete telephone number, purchaser's occupation,
38 purchaser's sex, purchaser's physical description, all legal names
39 and aliases ever used by the purchaser, yes or no answer to
40 questions that prohibit purchase including, but not limited to,

1 conviction of a felony as described in Section 12021 or an offense
2 described in Section 12021.1, the purchaser's status as a person
3 described in Section 8100 of the Welfare and Institutions Code,
4 whether the purchaser is a person who has been adjudicated by a
5 court to be a danger to others or found not guilty by reason of
6 insanity, whether the purchaser is a person who has been found
7 incompetent to stand trial or placed under conservatorship by a
8 court pursuant to Section 8103 of the Welfare and Institutions
9 Code, signature of purchaser, signature of salesperson (as a
10 witness to the purchaser's signature), name and complete address
11 of the dealer or firm selling the firearm as shown on the dealer's
12 license, the establishment number, if assigned, the dealer's
13 complete business telephone number, any information required by
14 Section 12082, any information required to determine whether or
15 not paragraph (6) of subdivision (c) of Section 12072 applies, and
16 a statement of the penalties for any person signing a fictitious name
17 or address or for knowingly furnishing any incorrect information
18 or for knowingly omitting any information required to be provided
19 for the register.

20 (2) Effective January 1, 2003, the purchaser shall provide his
21 or her right thumbprint on the register in a manner prescribed by
22 the department. No exception to this requirement shall be
23 permitted except by regulations adopted by the department.

24 (3) The firearms dealer shall record on the register or record of
25 electronic transfer the date that the handgun is delivered.

26 ~~(4) If required by the Department of Justice, the firearms dealer~~
27 ~~shall report to the department, in a manner and a format prescribed~~
28 ~~by the department, the information required by paragraph (3).~~

29 (c) (1) For firearms other than pistols, revolvers, or other
30 firearms capable of being concealed upon the person, information
31 contained in the register or record of electronic transfer shall be the
32 date and time of sale, peace officer exemption status pursuant to
33 subdivision (a) of Section 12078 and the agency name, auction or
34 event waiting period exemption pursuant to subdivision (g) of
35 Section 12078, California Firearms Dealer number issued
36 pursuant to Section 12071, dangerous weapons permitholder
37 waiting period exemption pursuant to subdivision (r) of Section
38 12078, curio and relic waiting period exemption pursuant to
39 paragraph (1) of subdivision (t) of Section 12078, full name of
40 purchaser, purchaser's complete date of birth, purchaser's local

1 address, if current address is temporary, complete permanent
2 address of purchaser, identification of purchaser, purchaser's
3 place of birth (state or country), purchaser's complete telephone
4 number, purchaser's occupation, purchaser's sex, purchaser's
5 physical description, all legal names and aliases ever used by the
6 purchaser, yes or no answer to questions that prohibit purchase,
7 including, but not limited to, conviction of a felony as described
8 in Section 12021 or an offense described in Section 12021.1, the
9 purchaser's status as a person described in Section 8100 of the
10 Welfare and Institutions Code, whether the purchaser is a person
11 who has been adjudicated by a court to be a danger to others or
12 found not guilty by reason of insanity, whether the purchaser is a
13 person who has been found incompetent to stand trial or placed
14 under conservatorship by a court pursuant to Section 8103 of the
15 Welfare and Institutions Code, signature of purchaser, signature of
16 salesperson (as a witness to the purchaser's signature), name and
17 complete address of the dealer or firm selling the firearm as shown
18 on the dealer's license, the establishment number, if assigned, the
19 dealer's complete business telephone number, any information
20 required by Section 12082, and a statement of the penalties for any
21 person signing a fictitious name or address or for knowingly
22 furnishing any incorrect information or for knowingly omitting
23 any information required to be provided for the register.

24 (2) Effective January 1, 2003, the purchaser shall provide his
25 or her right thumbprint on the register in a manner prescribed by
26 the department. No exception to this requirement shall be
27 permitted except by regulations adopted by the department.

28 (3) The firearms dealer shall record on the register or record of
29 electronic transfer the date that the firearm is delivered.

30 ~~(4) If required by the Department of Justice, the firearms dealer~~
31 ~~shall report to the department, in a manner and a format prescribed~~
32 ~~by the department, the information required by paragraph (3).~~

33 (d) Where the register is used, the following shall apply:

34 (1) Dealers shall use ink to complete each document.

35 (2) The dealer or salesperson making a sale shall ensure that all
36 information is provided legibly. The dealer and salespersons shall
37 be informed that incomplete or illegible information will delay
38 sales.

39 (3) Each dealer shall be provided instructions regarding the
40 procedure for completion of the form and routing of the form.

1 Dealers shall comply with these instructions which shall include
2 the information set forth in this subdivision.

3 (4) One firearm transaction shall be reported on each record of
4 sale document. For purposes of this subdivision, a “transaction”
5 means a single sale, loan, or transfer of any number of firearms that
6 are not pistols, revolvers, or other firearms capable of being
7 concealed upon the person.

8 (e) The dealer or salesperson making a sale shall ensure that all
9 required information has been obtained from the purchaser. The
10 dealer and all salespersons shall be informed that incomplete
11 information will delay sales.

12 (f) Effective January 1, 2003, the purchaser’s name, date of
13 birth, and driver’s license or identification number shall be
14 obtained electronically from the magnetic strip on the purchaser’s
15 driver’s license or identification and shall not be supplied by any
16 other means except as authorized by the department. This
17 requirement shall not apply in either of the following cases:

18 (1) The purchaser’s identification consists of a military
19 identification card.

20 (2) Due to technical limitations, the magnetic stripe reader is
21 unable to obtain the required information from the purchaser’s
22 identification. In those circumstances, the firearms dealer shall
23 obtain a photocopy of the identification as proof of compliance.

24 (g) As used in this section, the following definitions shall
25 control:

26 (1) “Purchaser” means the purchaser or transferee of a firearm
27 or the person being loaned a firearm.

28 (2) “Purchase” means the purchase, loan, or transfer of a
29 firearm.

30 (3) “Sale” means the sale, loan, or transfer of a firearm.

31 SEC. 7. Section 12201 of the Penal Code is amended to read:
32 12201. Nothing in this chapter shall affect or apply to any of
33 the following:

34 (a) The sale to, purchase by, or possession of machineguns by
35 police departments, sheriffs’ offices, marshals’ offices, district
36 attorneys’ offices, the California Highway Patrol, the Department
37 of Justice, the Department of Corrections for use by the
38 department’s Special Emergency Response Teams and Law
39 Enforcement Liaison/Investigations Unit, or the military or naval
40 forces of this state or of the United States for use in the discharge

1 of their official duties, provided, however, that any sale to these
2 entities be transacted by a person who is permitted pursuant to
3 Section 12230 and licensed pursuant to Section 12250.

4 (b) The possession of machineguns by regular, salaried,
5 full-time peace officer members of a police department, sheriff's
6 office, marshal's office, district attorney's office, the California
7 Highway Patrol, the Department of Justice, or the Department of
8 Corrections for use by the department's Special Emergency
9 Response Teams and Law Enforcement Liaison/Investigations
10 Unit when on duty and if the use is within the scope of their duties.

11 SEC. 8. Section 12280 of the Penal Code is amended to read:

12 12280. (a) (1) Any person who, within this state,
13 manufactures or causes to be manufactured, distributes,
14 transports, or imports into the state, keeps for sale, or offers or
15 exposes for sale, or who gives or lends any assault weapon, except
16 as provided by this chapter, is guilty of a felony, and upon
17 conviction shall be punished by imprisonment in the state prison
18 for four, six, or eight years.

19 (2) In addition and consecutive to the punishment imposed
20 under paragraph (1), any person who transfers, lends, sells, or
21 gives any assault weapon to a minor in violation of paragraph (1)
22 shall receive an enhancement of one year.

23 (b) Except as provided in Section 12288, and in subdivisions
24 (c) and (d), any person who, within this state, possesses any assault
25 weapon, except as provided in this chapter, is guilty of a public
26 offense and upon conviction shall be punished by imprisonment in
27 the state prison, or in a county jail, not exceeding one year.
28 However, if the person presents proof that he or she lawfully
29 possessed the assault weapon prior to June 1, 1989, or prior to the
30 date it was specified as an assault weapon, and has since registered
31 any other lawfully obtained firearm specified by Section 12276 or
32 12276.5 pursuant to Section 12285 or relinquished them pursuant
33 to Section 12288, a first-time violation of this subdivision shall be
34 an infraction punishable by a fine of up to five hundred dollars
35 (\$500), but not less than three hundred fifty dollars (\$350), if the
36 person has otherwise possessed the firearm in compliance with
37 subdivision (c) of Section 12285. In these cases, the assault weapon
38 shall be destroyed pursuant to Section 12028.

39 (c) A first-time violation of subdivision (b) shall be an
40 infraction punishable by a fine of up to five hundred dollars

1 (\$500), if the person was found in possession of no more than two
2 firearms in compliance with subdivision (c) of Section 12285 and
3 the person meets all of the following conditions:

4 (1) The person proves that he or she lawfully possessed the
5 assault weapon prior to the date it was defined as an assault weapon
6 pursuant to Section 12276.1.

7 (2) The person is not found in possession of a firearm specified
8 as an assault weapon pursuant to Section 12276 or Section
9 12276.5.

10 (3) The person has not previously been convicted of violating
11 this section.

12 (4) The person was found to be in possession of the assault
13 weapons within one year following the end of the one-year
14 registration period established pursuant to subdivision (a) of
15 Section 12285.

16 (5) The person relinquished the firearms pursuant to Section
17 12288.

18 (d) Notwithstanding Section 654 or any other provision of law,
19 any person who commits another crime while violating this section
20 may receive an additional, consecutive punishment of one year for
21 violating this section in addition and consecutive to the
22 punishment, including enhancements, which is prescribed for the
23 other crime.

24 (e) Subdivisions (a) and (b) shall not apply to the sale to,
25 purchase by, or possession of assault weapons by the Department
26 of Justice, police departments, sheriffs' offices, marshals' offices,
27 the Youth and Adult Corrections Agency, the Department of the
28 California Highway Patrol, district attorneys' offices, Department
29 of Fish and Game, Department of Parks and Recreation, or the
30 military or naval forces of this state or of the United States, or any
31 federal law enforcement agency for use in the discharge of their
32 official duties.

33 (f) (1) Subdivision (b) shall not prohibit the possession or use
34 of assault weapons by sworn peace officer members of those
35 agencies specified in subdivision (e) for law enforcement
36 purposes, whether on or off duty.

37 (2) Subdivisions (a) and (b) shall not prohibit the delivery,
38 transfer, or sale of an assault weapon to, or the possession of an
39 assault weapon by, a sworn peace officer member of an agency
40 specified in subdivision (e), provided that the peace officer is

1 authorized by his or her employer to possess or receive the assault
2 weapon. Required authorization is defined as verifiable written
3 certification from the head of the agency, identifying the recipient
4 or possessor of the assault weapon as a peace officer and
5 authorizing him or her to receive or possess the specific assault
6 weapon. For this exemption to apply, in the case of a peace officer
7 who possesses or receives the assault weapon prior to January 1,
8 2002, the officer shall register the assault weapon pursuant to
9 Section 12285 on or before April 1, 2002; in the case of a peace
10 officer who possesses or receives the assault weapon on or after
11 January 1, 2002, the officer shall register the assault weapon
12 pursuant to Section 12285 not later than 90 days after possession
13 or receipt. The peace officer must include with the registration, a
14 copy of the authorization required pursuant to this paragraph.

15 (3) Nothing in this section shall be construed to limit or prohibit
16 the delivery, transfer, or sale of an assault weapon to, or the
17 possession of an assault weapon by, a member of a federal law
18 enforcement agency provided that person is authorized by the
19 employing agency to possess the assault weapon.

20 (g) Subdivisions (a) and (b) shall not prohibit the sale or
21 transfer of assault weapons by an entity specified in subdivision (e)
22 to a person, upon retirement, who retired as a sworn officer from
23 that entity.

24 (h) Subdivision (b) shall not apply to the possession of an
25 assault weapon by a retired peace officer who received that assault
26 weapon pursuant to subdivision (g).

27 (i) Subdivision (b) shall not apply to the possession of an
28 assault weapon, as defined in Section 12276, by any person during
29 the 1990 calendar year, during the 90-day period immediately after
30 the date it was specified as an assault weapon pursuant to Section
31 12276.5, or during the one-year period after the date it was defined
32 as an assault weapon pursuant to Section 12276.1, if all of the
33 following are applicable:

34 (1) The person is eligible under this chapter to register the
35 particular assault weapon.

36 (2) The person lawfully possessed the particular assault
37 weapon described in paragraph (1) prior to June 1, 1989, if the
38 weapon is specified as an assault weapon pursuant to Section
39 12276, or prior to the date it was specified as an assault weapon



1 pursuant to Section 12276.5, or prior to the date it was defined as
2 an assault weapon pursuant to Section 12276.1.

3 (3) The person is otherwise in compliance with this chapter.

4 (j) Subdivisions (a) and (b) shall not apply to the manufacture
5 by persons who are issued permits pursuant to Section 12287 of
6 assault weapons for sale to the following:

7 (1) Exempt entities listed in subdivision (e).

8 (2) Entities and persons who have been issued permits pursuant
9 to Section 12286.

10 (3) Entities outside the state who have, in effect, a federal
11 firearms dealer's license solely for the purpose of distribution to
12 an entity listed in paragraphs (4) to (6), inclusive.

13 (4) Federal military and law enforcement agencies.

14 (5) Law enforcement and military agencies of other states.

15 (6) Foreign governments and agencies approved by the United
16 States State Department.

17 (k) Subdivision (a) shall not apply to a person who is the
18 executor or administrator of an estate that includes an assault
19 weapon registered under Section 12285 or that was possessed
20 pursuant to subdivision (f) or (h) which is disposed of as
21 authorized by the probate court, if the disposition is otherwise
22 permitted by this chapter.

23 (l) Subdivision (b) shall not apply to a person who is the
24 executor or administrator of an estate that includes an assault
25 weapon registered under Section 12285 or that was possessed
26 pursuant to subdivision (f) or (h), if the assault weapon is
27 possessed at a place set forth in paragraph (1) of subdivision (c) of
28 Section 12285 or as authorized by the probate court.

29 (m) Subdivision (a) shall not apply to:

30 (1) A person who lawfully possesses and has registered an
31 assault weapon pursuant to this chapter, or who lawfully possesses
32 an assault weapon pursuant to subdivision (h), who lends that
33 assault weapon to another if all the following apply:

34 (A) The person to whom the assault weapon is lent is 18 years
35 of age or over and is not in a class of persons prohibited from
36 possessing firearms by virtue of Section 12021 or 12021.1 of this
37 code or Section 8100 or 8103 of the Welfare and Institutions Code.

38 (B) The person to whom the assault weapon is lent remains in
39 the presence of the registered possessor of the assault weapon, or

1 the person who lawfully possesses an assault weapon pursuant to
2 subdivision (h).

3 (C) The assault weapon is possessed at any of the following
4 locations:

5 (i) While on a target range that holds a regulatory or business
6 license for the purpose of practicing shooting at that target range.

7 (ii) While on the premises of a target range of a public or private
8 club or organization organized for the purpose of practicing
9 shooting at targets.

10 (iii) While attending any exhibition, display, or educational
11 project that is about firearms and that is sponsored by, conducted
12 under the auspices of, or approved by a law enforcement agency
13 or a nationally or state recognized entity that fosters proficiency
14 in, or promotes education about, firearms.

15 (2) The return of an assault weapon to the registered possessor,
16 or the lawful possessor, which is lent by the same pursuant to
17 paragraph (1).

18 (n) Subdivision (b) shall not apply to the possession of an
19 assault weapon by a person to whom an assault weapon is lent
20 pursuant to subdivision (m).

21 (o) Subdivisions (a) and (b) shall not apply to the possession
22 and importation of an assault weapon into this state by a
23 nonresident if all of the following conditions are met:

24 (1) The person is attending or going directly to or coming
25 directly from an organized competitive match or league
26 competition that involves the use of an assault weapon.

27 (2) The competition or match is conducted on the premises of
28 one of the following:

29 (i) A target range that holds a regulatory or business license for
30 the purpose of practicing shooting at that target range.

31 (ii) A target range of a public or private club or organization
32 that is organized for the purpose of practicing shooting at targets.

33 (3) The match or competition is sponsored by, conducted under
34 the auspices of, or approved by, a law enforcement agency or a
35 nationally or state recognized entity that fosters proficiency in, or
36 promotes education about, firearms.

37 (4) The assault weapon is transported in accordance with
38 Section 12026.1 or 12026.2.

39 (5) The person is 18 years of age or over and is not in a class
40 of persons prohibited from possessing firearms by virtue of

1 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of
2 the Welfare and Institutions Code.

3 (p) Subdivision (b) shall not apply to any of the following
4 persons:

5 (1) A person acting in accordance with Section 12286.

6 (2) A person who has a permit to possess an assault weapon
7 issued pursuant to Section 12286 when he or she is acting in
8 accordance with Section 12285 or 12286.

9 (q) Subdivisions (a) and (b) shall not apply to any of the
10 following persons:

11 (1) A person acting in accordance with Section 12285.

12 (2) A person acting in accordance with Section 12286 or
13 12290.

14 (r) Subdivision (b) shall not apply to the registered owner of an
15 assault weapon possessing that firearm in accordance with
16 subdivision (c) of Section 12285.

17 (s) Subdivision (a) shall not apply to the importation into this
18 state of an assault weapon by the registered owner of that assault
19 weapon, if it is in accordance with the provisions of subdivision
20 (c) of Section 12285.

21 (t) As used in this chapter, the date a firearm is an assault
22 weapon is the earliest of the following:

23 (1) The effective date of an amendment to Section 12276 that
24 adds the designation of the specified firearm.

25 (2) The effective date of the list promulgated pursuant to
26 Section 12276.5 that adds or changes the designation of the
27 specified firearm.

28 (3) The operative date of Section 12276.1, as specified in
29 subdivision (d) of that section.

30 SEC. 9. Section 12285 of the Penal Code is amended to read:

31 12285. (a) Any person who lawfully possesses an assault
32 weapon, as defined in Section 12276, prior to June 1, 1989, shall
33 register the firearm by January 1, 1991, and any person who
34 lawfully possessed an assault weapon prior to the date it was
35 specified as an assault weapon pursuant to Section 12276.5 shall
36 register the firearm within 90 days with the Department of Justice
37 pursuant to those procedures that the department may establish.
38 Except as provided in subdivision (a) of Section 12280, any person
39 who lawfully possessed an assault weapon prior to the date it was
40 defined as an assault weapon pursuant to Section 12276.1, and

1 which was not specified as an assault weapon under Section 12276
2 or 12276.5, shall register the firearm within one year of the
3 effective date of Section 12276.1, with the department pursuant to
4 those procedures that the department may establish. The
5 registration shall contain a description of the firearm that identifies
6 it uniquely, including all identification marks, the full name,
7 address, date of birth, and thumbprint of the owner, and any other
8 information that the department may deem appropriate. The
9 department may charge a fee for registration of up to twenty
10 dollars (\$20) per person but not to exceed the actual processing
11 costs of the department. After the department establishes fees
12 sufficient to reimburse the department for processing costs, fees
13 charged shall increase at a rate not to exceed the legislatively
14 approved annual cost-of-living adjustment for the department's
15 budget or as otherwise increased through the Budget Act.

16 (b) (1) Except as provided in paragraph (2), no assault weapon
17 possessed pursuant to this section may be sold or transferred on or
18 after January 1, 1990, to anyone within this state other than to a
19 licensed gun dealer, as defined in subdivision (c) of Section 12290,
20 or as provided in Section 12288. Any person who (A) obtains title
21 to an assault weapon registered under this section or that was
22 possessed pursuant to subdivision (f) or (h) of Section 12280 by
23 bequest or intestate succession, or (B) lawfully possessed a firearm
24 subsequently declared to be an assault weapon pursuant to Section
25 12276.5, or subsequently defined as an assault weapon pursuant to
26 Section 12276.1, shall, within 90 days, render the weapon
27 permanently inoperable, sell the weapon to a licensed gun dealer,
28 obtain a permit from the Department of Justice in the same manner
29 as specified in Article 3 (commencing with Section 12230) of
30 Chapter 2, or remove the weapon from this state. A person who
31 lawfully possessed a firearm that was subsequently declared to be
32 an assault weapon pursuant to Section 12276.5 may alternatively
33 register the firearm within 90 days of the declaration issued
34 pursuant to subdivision (f) of Section 12276.5.

35 (2) A person moving into this state, otherwise in lawful
36 possession of an assault weapon, shall do one of the following:

37 (A) Prior to bringing the assault weapon into this state, that
38 person shall first obtain a permit from the Department of Justice
39 in the same manner as specified in Article 3 (commencing with
40 Section 12230) of Chapter 2.

1 (B) The person shall cause the assault weapon to be delivered
2 to a licensed gun dealer, as defined in subdivision (c) of Section
3 12290, in this state in accordance with Chapter 44 (commencing
4 with Section 921) of Title 18 of the United States Code and the
5 regulations issued pursuant thereto. If the person obtains a permit
6 from the Department of Justice in the same manner as specified in
7 Article 3 (commencing with Section 12230) of Chapter 2, the
8 dealer shall redeliver that assault weapon to the person. If the
9 licensed gun dealer, as defined in subdivision (c) of Section 12290,
10 is prohibited from delivering the assault weapon to a person
11 pursuant to this paragraph, the dealer shall possess or dispose of
12 the assault weapon as allowed by this chapter.

13 (c) A person who has registered an assault weapon under this
14 section may possess it only under any of the following conditions
15 unless a permit allowing additional uses is first obtained under
16 Section 12286:

17 (1) At that person's residence, place of business, or other
18 property owned by that person, or on property owned by another
19 with the owner's express permission.

20 (2) While on the premises of a target range of a public or private
21 club or organization organized for the purpose of practicing
22 shooting at targets.

23 (3) While on a target range that holds a regulatory or business
24 license for the purpose of practicing shooting at that target range.

25 (4) While on the premises of a shooting club which is licensed
26 pursuant to the Fish and Game Code.

27 (5) While attending any exhibition, display, or educational
28 project which is about firearms and which is sponsored by,
29 conducted under the auspices of, or approved by a law
30 enforcement agency or a nationally or state recognized entity that
31 fosters proficiency in, or promotes education about, firearms.

32 (6) While on publicly owned land if the possession and use of
33 a firearm described in Section 12276 or 12276.1 is specifically
34 permitted by the managing agency of the land.

35 (7) While transporting the assault weapon between any of the
36 places mentioned in this subdivision, or to any licensed gun dealer,
37 as defined in subdivision (c) of Section 12290, for servicing or
38 repair pursuant to subdivision (b) of Section 12290, if the assault
39 weapon is transported as required by Section 12026.1.



1 (d) No person who is under the age of 18 years, no person who
2 is prohibited from possessing a firearm by Section 12021 or
3 12021.1, and no person described in Section 8100 or 8103 of the
4 Welfare and Institutions Code may register or possess an assault
5 weapon.

6 (e) The department's registration procedures shall provide the
7 option of joint registration for assault weapons owned by family
8 members residing in the same household.

9 (f) For 90 days following January 1, 1992, a forgiveness period
10 shall exist to allow persons specified in subdivision (b) of Section
11 12280 to register with the Department of Justice assault weapons
12 that they lawfully possessed prior to June 1, 1989.

13 (g) Any person who registered a firearm as an assault weapon
14 pursuant to the provisions of law in effect prior to January 1, 2000,
15 where the assault weapon is thereafter defined as an assault
16 weapon pursuant to Section 12276.1, shall be deemed to have
17 registered the weapon for purposes of this chapter and shall not be
18 required to reregister the weapon pursuant to this section.

19 (h) Any person who registers his or her assault weapon during
20 the 90-day forgiveness period described in subdivision (f), and any
21 person whose registration form was received by the Department
22 of Justice after January 1, 1991, and who was issued a temporary
23 registration prior to the end of the forgiveness period, shall not be
24 charged with a violation of subdivision (b) of Section 12280, if law
25 enforcement becomes aware of that violation only as a result of the
26 registration of the assault weapon. This subdivision shall have no
27 effect upon persons charged with a violation of subdivision (b) of
28 Section 12280 of the Penal Code prior to January 1, 1992,
29 provided that law enforcement was aware of the violation before
30 the weapon was registered.

31 SEC. 10. Section 12287 of the Penal Code is amended to read:

32 12287. (a) The Department of Justice may, upon a finding of
33 good cause, issue permits for the manufacture of assault weapons
34 to federally licensed manufacturers of firearms for the sale to,
35 purchase by, or possession of assault weapons by, any of the
36 following:

37 (1) The agencies listed in subdivision (e) of Section 12280.

38 (2) Entities and persons who have been issued permits pursuant
39 to Section 12286.

(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

(4) Federal law enforcement and military agencies.

(5) Law enforcement and military agencies of other states.

(6) Foreign governments and agencies approved by the United States State Department.

(b) Application for the permits, the keeping and inspection thereof, and the revocation of permits shall be undertaken in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2.

SEC. 11. Section 12290 of the Penal Code is amended to read:

12290. (a) Any licensed gun dealer, as defined in subdivision (c), who lawfully possesses an assault weapon pursuant to Section 12285, in addition to the uses allowed in Section 12285, may transport the weapon between dealers or out of the state, display it at any gun show licensed by a state or local governmental entity, sell it to a resident outside the state, or sell it to a person who has been issued a permit pursuant to Section 12286. Any transporting allowed by this section must be done as required by Section 12026.1.

(b) (1) Any licensed gun dealer, as defined in subdivision (c), may take possession of any assault weapon for the purposes of servicing or repair from any person to whom it is legally registered or who has been issued a permit to possess it pursuant to this chapter.

(2) Any licensed gun dealer may transfer possession of any assault weapon received pursuant to paragraph (1), to a gunsmith for purposes of accomplishing service or repair of the same. Transfers are permissible only to the following persons:

(A) A gunsmith who is in the dealer's employ.

(B) A gunsmith with whom the dealer has contracted for gunsmithing services. In order for this subparagraph to apply, the gunsmith receiving the assault weapon must hold all of the following:

(i) A dealer's license issued pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(ii) Any business license required by a state or local governmental entity.

(c) The term “licensed gun dealer,” as used in this article, means a person who is licensed pursuant to Section 12071, and who has a permit to sell assault weapons issued pursuant to Section 12286.

SEC. 12. Section 12301 of the Penal Code is amended to read:

12301. (a) The term “destructive device,” as used in this chapter, shall include any of the following weapons:

(1) Any projectile containing any explosive or incendiary material or any other chemical substance, including, but not limited to, that which is commonly known as tracer or incendiary ammunition, except tracer ammunition manufactured for use in shotguns.

(2) Any bomb, grenade, explosive missile, or similar device or any launching device therefor.

(3) Any weapon of a caliber greater than 0.60 caliber which fires fixed ammunition, or any ammunition therefor, other than a shotgun (smooth or rifled bore) conforming to the definition of a “destructive device” found in subsection (b) of Section 179.11 of Title 27 of the Code of Federal Regulations, shotgun ammunition (single projectile or shot), antique rifle, or an antique cannon. For purposes of this section, the term “antique cannon” means any cannon manufactured before January 1, 1899, which has been rendered incapable of firing or for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade. The term “antique rifle” means a firearm conforming to the definition of an “antique firearm” in Section 179.11 of Title 27 of the Code of Federal Regulations.

(4) Any rocket, rocket-propelled projectile, or similar device of a diameter greater than 0.60 inch, or any launching device therefor, and any rocket, rocket-propelled projectile, or similar device containing any explosive or incendiary material or any other chemical substance, other than the propellant for such device, except such devices as are designed primarily for emergency or distress signaling purposes.

(5) Any breakable container which contains a flammable liquid with a flashpoint of 150 degrees Fahrenheit or less and has a wick or similar device capable of being ignited, other than a device which is commercially manufactured primarily for the purpose of illumination.

1 (6) Any sealed device containing dry ice (CO₂) or other
2 chemically reactive substances assembled for the purpose of
3 causing an explosion by a chemical reaction.

4 (7) Any flamethrower designed or redesigned for use as a
5 weapon.

6 (b) The term “explosive,” as used in this chapter, shall mean
7 any explosive defined in Section 12000 of the Health and Safety
8 Code.

9 SEC. 13. No reimbursement is required by this act pursuant
10 to Section 6 of Article XIII B of the California Constitution
11 because the only costs that may be incurred by a local agency or
12 school district will be incurred because this act creates a new crime
13 or infraction, eliminates a crime or infraction, or changes the
14 penalty for a crime or infraction, within the meaning of Section
15 17556 of the Government Code, or changes the definition of a
16 crime within the meaning of Section 6 of Article XIII B of the
17 California Constitution.

